CLERK'S OFFICE U.S. DIST. COURT AT ROANOKE, VA FILED

FOR THE WESTERN DISTRICT OF VIRGINIAJOHN F. OR ROANOKE DIVISION BY:

| `` | DEPUTY CLERK |
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|) | |
|) | Civil Action No. 7:06CV00398 |
|) | |
|) | FINAL ORDER |
|) | |
|) | By: Hon. Glen E. Conrad |
|) | United States District Judge |
| |)))) |

In accordance with the accompanying memorandum opinion, it is hereby

ORDERED

that the respondent's motion to dismiss and/or motion for summary judgment shall be and hereby is **GRANTED**, and the petition for writ of mandamus filed by the petitioner shall be and hereby is **STRICKEN** from the active docket of the court.

The Clerk is directed to send certified copies of this order and the accompanying memorandum opinion to the petitioner and counsel of record for the respondent.

ENTER: This 39 4 day of September, 2006.

United States District Judge